

Serial No. 10/647,057

Docket No. 30296A-DIV1

**Remarks:**

Claims 1, 4-6, 9-11, 16-21 remain for consideration in this application, with claims 1, 6, 11, 16 and 18 being in independent format. The claims of group 2 were previously withdrawn pursuant to the restriction requirement.

Claim 11 was amended to incorporate the limitations of Claim 1. Claim 11 requires at least 87% homology over a 1017 nucleotide length portion of SEQ ID No. 8 and thus overcomes the rejection in view of Struck et al 1998 (U.S. Patent # 5,804,190). As previously mentioned, Struck does not teach or suggest a homologous region and therefore cannot be said to anticipate or even obviate the present claim.

The support for Claim 20 resides in Table 2 of Example 3 of the specification. This example, summarized in Table 2, reflects the characterization of truncated forms of the nucleotide sequence of SEQ ID No. 8 as set forth in Claim 20, thus complying with the written description requirement.

The support for Claim 21 resides in Example 2 under the heading "Creation of Gene Truncations." This section reflects the enablement of amplification of overlapping regions of the leukotoxin gene ranging in size from 1.1kb to 2.8 kb, as set forth in Claim 21, thus complying with the written description requirement.

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

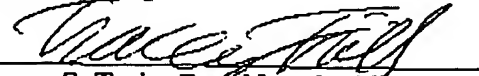
Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 50-2790.

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Respectfully submitted,

By



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Certificate of Facsimile Transmission

I hereby certify that this AMENDMENT AND RESPONSE for application Serial No. 10/647,057, filed August 22, 2003, are being filed by facsimile transmission to the United States Patent and Trademark Office at fax number (571) 273-8300 on December 4, 2006.

By

  
Tracey S. Truitt

12/4/06

(Date of Signature)